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PROPOSED ATTORNEYS FOR CHAPTER 7 TRUSTEE

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
WICHITA FALLS DIVISION**

IN RE:	§	
	§	CASE NO. 09-70033-HDH-7
ROBERT WILLIAM RAYNES JR.	§	
	§	
BETTY SUE RAYNES	§	CHAPTER 7
	§	
DEBTORS	§	

**TRUSTEE'S MOTION TO SELL REAL PROPERTY OF THE DEBTORS FREE
AND CLEAR OF ALL LIENS, CLAIMS AND ENCUMBRANCES**

TO THE HONORABLE HARLIN D. HALE, U. S. BANKRUPTCY JUDGE:

COMES NOW, Shawn K. Brown, Chapter 7 Trustee ("Trustee") in the above-styled and numbered cause, and pursuant to 11 U.S.C. § 363, files this his Motion to Sell Real Property of the Debtor(s) Free and Clear of all Liens, Claims and Encumbrances, and would respectfully show the Court as follows:

A HEARING MAY NOT BE CONDUCTED HEREON UNLESS A RESPONSE IS FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT THE EARLE CABELL FEDERAL BUILDING - U.S. COURTHOUSE, 1100 COMMERCE STREET, ROOM 1254, DALLAS, TEXAS 75242-1496 BEFORE CLOSE OF BUSINESS WITHIN TWENTY-THREE (23) DAYS FROM THE DATE OF SERVICE HEREOF.

ANY RESPONSE MUST BE FILED WITH THE CLERK, AND A COPY MUST BE SERVED UPON COUNSEL FOR THE MOVING PARTY PRIOR TO THE DATE AND TIME SET FORTH HEREIN. IF A RESPONSE IS FILED A HEARING WILL BE HELD WITH NOTICE TO (1) THE DEBTOR AND DEBTOR'S ATTORNEY; (2) THE

OFFICE OF THE U.S. TRUSTEE; (3) ANY TRUSTEE AND THE TRUSTEE'S ATTORNEY; (4) THE MEMBERS OF ANY OFFICIAL COMMITTEE, OR THE ATTORNEY FOR ANY OFFICIAL COMMITTEE IF AN ATTORNEY HAS BEEN EMPLOYED; OR IF THERE IS NO COMMITTEE, THE TWENTY (20) LARGEST UNSECURED CREDITORS; (5) ANY PARTY REQUESTING NOTICE; (6) ANY PARTY NAMED ON A COURT-APPROVED ALTERNATIVE SERVICE LIST; (7) THE RESPONDING PARTIES; AND (8) ANY OTHER AFFECTED ENTITY.

IF NO HEARING ON SUCH NOTICE OR MOTION INITIATING A CONTESTED MATTER IS TIMELY REQUESTED, THE RELIEF REQUESTED SHALL BE DEEMED TO BE UNOPPOSED, AND THE COURT MAY ENTER AN ORDER GRANTING THE RELIEF SOUGHT OR THE NOTICED ACTION MAY BE TAKEN.

1. This Court has jurisdiction of this matter pursuant to 28 U.S.C. §1334 and 157.

This Motion is a matter concerning the administration of the Estate, in particular regarding the sale of property, and is therefore, a core matter pursuant to 28 U.S.C. §157(b)(2).

2. On or about January 30, 2009, the Debtors filed a Voluntary Petition for relief under Chapter 7 of the United States Bankruptcy Code. Shawn K. Brown was appointed chapter 7 trustee. The Trustee filed his no asset report and the case was closed on June 9, 2009.

3. The Debtors filed a motion to reopen the case on August 13, 2009. An order was entered on September 1, 2009 and the case was reopened. By order entered on September 22, 2009 Shawn K. Brown was reappointed as chapter 7 trustee.

4. One of the assets listed by the Debtors was approximately 390.20 acres of farm land in Haskell County, Texas, described more fully in the legal description attached to the Contract described below and attached hereto (the "Property"). The Debtors are the owners of record of the Property. The Debtors allege that their son, Robert William Raynes, III, a chapter 13 debtor in case no. 09-70383 pending in this Court, owns the equitable interest in the Property by virtue of his making purchase money payments on the Property and paying property taxes. The issue has not been determined. The Trustee, with the agreement of counsel for the debtors

in both cases, will sell the Property and retain the net proceeds from closing (after payment of valid liens and ad valorem taxes and closing costs) in his trustee account in this case until further order of the Court in this case. The Court, on September 22, 2009, entered an order in the son's chapter 13 case authorizing him to sell the Property ("Chapter 13 Order"). The son is not able to sell the Property due to the fact that title is in the Debtors in this case. In addition, the son has claimed exemptions which have been objected to in the chapter 13 case and are pending. It is intended and requested that the terms of an order approving the sale in this case supersede the terms of the Chapter 13 Order (with a copy of any such order to be filed in the Chapter 13 case).

5. The Trustee has received an offer for the purchase of the Property from Charlie Rueffer for a purchase price of \$254,800.00 (the "Contract"), a true copy of which is attached hereto as an exhibit and fully incorporated. The sale pursuant to the Contract shall be "as is" without representation or warranty.

6. Property taxes are current through 2008. The 2009 ad valorem taxes will be prorated and the ad valorem tax liens shall remain attached to the Property to secure payment of the Purchaser's pro rata portion of the 2009 taxes. There is a first lien mortgage on the Property held by Central Texas Land Bank, FLCA. The payoff of the mortgage is approximately \$135,000.00.

7. The Trustee requests that the Court authorize him to sell the Property free and clear of all liens, claims, and encumbrances (other than liens for prorated unpaid 2009 ad valorem taxes) pursuant to section 363(f) of the Bankruptcy Code to the buyer with the highest and best offer that can close within a reasonable time after approval by this Court. The Trustee seeks approval of the Contract. The Contract is the highest and best offer to date. The Contract

is subject to any higher and better written overbids received within twenty-three (23) days of service of this Motion and approval by the Court. The Trustee seeks authority to pay closing costs, ad valorem taxes, and payoff of the Central Texas Land Bank, FLCA loan at closing. All remaining unpaid liens, claims, and encumbrances (other than liens for prorated 2009 ad valorem taxes) will attach to the net sale proceeds. The Property shall be sold "as is", without representations or warranties. The Trustee requests that the Court waive the ten day stay requirement according to F.R.B.P. 6004(g).

8. The Trustee gives notice that any party seeking to submit an overbid for the Property should file a response to this Motion, together with a fully executed contract containing such bid, and serve such response on the Trustee within twenty-three (23) days of service of this Motion.

PLEASE TAKE NOTICE THAT THE BANKRUPTCY ALLOWS THE TRUSTEE TO SEEK TO AVOID A SALE UNDER §363(N) OF THE BANKRUPTCY CODE IF THE SALE PRICE WAS CONTROLLED BY AN AGREEMENT AMONG POTENTIAL BIDDERS AT SUCH SALE, OR MAY RECOVER FROM A PARTY TO SUCH AGREEMENT ANY AMOUNT BY WHICH THE VALUE OF THE PROPERTY SOLD EXCEEDS THE PRICE AT WHICH SUCH SALE WAS CONSUMMATED, AND MAY RECOVER ANY COSTS, ATTORNEYS' FEES, OR EXPENSES INCURRED IN AVOIDING SUCH SALE OR RECOVERING SUCH AMOUNT. IN ADDITION TO ANY RECOVERY UNDER THE PRECEDING SENTENCE, THE COURT MAY GRANT JUDGMENT FOR PUNITIVE DAMAGES IN FAVOR OF THE ESTATE AND AGAINST SUCH PARTY THAT ENTERED INTO SUCH AGREEMENT IN WILLFUL DISREGARD OF THIS SUBSECTION.

WHEREFORE, the Trustee requests this Court authorize him to sell the Property to Charlie Ruefner or any other Court approved overbid, free and clear of all liens, claims and encumbrances (other than liens for prorated 2009 ad valorem taxes), with unpaid liens to attach to the net proceeds of sale, authorize the payment of ordinary closing costs, ad valorem taxes, payoff of the Central Texas Land Bank, FLCA loan at closing, waive the ten day stay

requirement according to F.R.B.P. 6004(h), with the net proceeds of sale to be held by the Trustee pending further order of this Court, and for the order approving this sale to supersede the Chapter 13 Order, and for such other and further relief to which the Trustee and the estate can show themselves justly entitled at law or in equity.

Respectfully submitted,

WRIGHT GINSBERG BRUSILOW P.C.

/s/ Shawn K. Brown
State Bar No. 01370490

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PROPOSED ATTORNEYS FOR
THE CHAPTER 7 TRUSTEE

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion was served upon the United States Trustee, Debtor's counsel, upon all parties on the official mailing matrix and upon those parties requesting notice, by electronic service or by U.S. first-class mail, postage prepaid, as applicable, on the 10th day of November, 2009.

/s/ Shawn K. Brown